Decision No. C14-1505

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-0836E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2014 RENEWABLE ENERGY STANDARD COMPLIANCE PLAN.

DECISION APPROVING RENEWABLE ENERGY STANDARD COMPLIANCE PLAN AND ADDRESSING EXCEPTIONS TO DECISION NO. R14-0902

Mailed Date: December 26, 2014
Adopted Date: November 24, 2014

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I. BY THE COMMISSION

A. Statement

1. This Decision addresses exceptions to Decision No. R14-0902 (Recommended Decision) that approved, with modifications, the 2014 Renewable Energy Standard Compliance Plan (RES Plan) filed by Public Service Company of Colorado (Public Service or Company).[1] Pursuant to § 40-6-109(2) C.R.S., on our own motion and based on the record in this proceeding, we uphold the Recommended Decision and approve the RES Plan with additional modifications that address the acquisition of on-site solar resources in 2014 as well as the planned acquisitions of additional eligible energy resources through the end of 2016.

B. Discussion

2. On July 24, 2013, Public Service filed an Application for Approval of its 2014 RES Plan. Public Service seeks approval of proposed capacity acquisition levels for the small and medium segments of its Solar*Rewards programs for on-site solar resources, Solar*Rewards Community program for community solar gardens (CSGs), and a new Recycled Energy program, all for the purpose of acquiring Renewable Energy Credits (RECs) to comply with the Renewable Energy Standard (RES) in § 40-2-124, C.R.S., and Commission

[1] The Recommended Decision provides a complete procedural history, including a detailed discussion of the Commission's severing of certain net metering issues from this proceeding.

Rules 4 *Code of Colorado Regulations* (CCR) 723-3-3650 through 3668 of the Rules Regulating Electric Utilities. In conjunction with those requests, Public Service seeks approval of proposed incentives in the form of standard offers for the purchase of RECs. The Company also seeks to implement a new market-based method for calculating the premium customers pay under its Windsource program.

3. On July 31, 2014, Administrative Law Judge (ALJ) Harris Adams issued the Recommend Decision.[2]

4. Exceptions to the Recommended Decision were timely filed by: Public Service, Staff of the Colorado Public Utilities Commission (Staff), Western Resource Advocates (WRA), The Alliance for Solar Choice (TASC), the Colorado Solar Energy Industries Alliance (COSEIA), and SunShare, LLC (SunShare).

5. Public Service, the Colorado Office of Consumer Counsel (OCC), SunShare, and TASC timely filed responses to exceptions.

6. By Decision No. C14-1309-I, issued October 29, 2014, we directed Public Service to provide additional information on the projected cost of the 2014 RES Plan as modified by the ALJ and the associated impact on the deferred account balance of the Company's Renewable Energy Standard Adjustment (RESA). We also ordered Public Service to estimate the RESA funds it anticipates collecting annually through the end of 2016 and to show the costs and RESA impacts if the Company acquired up to 36 MW in the Solar*Rewards Program, up to 30 MW through the Solar*Rewards Community program, and up to 20 MW in the Recycled Energy program per year for 2014, 2015, and 2016.

[2] The Recommended Decision provides a complete procedural history, including a detailed discussion of the Commission's severing of certain net metering issues from this proceeding.

7. Public Service filed responsive information (Supplemental Filing) on November 6 and 7, 2014.

8. WRA, Staff, and TASC each filed a response to the Supplemental Filing on November 12, 2014. In addition, the Solar Energy Industries Association, TASC, COSEIA, WRA, and Vote Solar (Joint Movants) filed a Motion to Strike certain parts of the Supplemental Filing that present Public Service's estimates of the cost and RESA impacts of bill credits for net metered on-site solar systems.

C. Recommended Decision

9. Although Public Service proposed that its RES Plan be in effect only for calendar year 2014, the ALJ extended the plan's term with a desire to promote continuity in the Company's on-site solar programs while accommodating the deadline for the filing of the Company's next RES Plan as required by Decision No. C14-0729, or 60 days after the effective date of a final decision in this proceeding.[3] The Recommended Decision modifies the RES Plan by approving acquisition of eligible energy resources for an 18-month period from the effective date of the final Commission decision in this proceeding.

10. Consistent with that extension and other findings in the Recommended Decision, the ALJ approved eligible energy resource acquisitions at levels higher than Public Service proposed, including: up to 65 Megawatts (MW) for Solar*Rewards (including up to 45 MW in the small segment and up to 20 MW in the medium segment), between 6.5 MW and 30 MW in the Solar*Rewards Community program, and up to 20 MW in the Recycled Energy program.

[3] Recommended Decision, ¶ 41; *see*, Decision No. C14-0729, Proceeding No. 14V-0188E issued July 1, 2014, ¶¶ 5-6 (granting request that, no later than 60 days after the final Commission decision in Proceeding No. 13A-0836E, Public Service shall file its next RES Compliance Plan covering calendar years 2015 through 2016).

11. The Recommended Decision also denied Public Service's proposed market-based pricing for the Windsource premium.

D. Exceptions

12. In its exceptions, Public Service requests the Commission set aside the capacity acquisition levels approved in the Recommended Decision and instead adopt the levels suggested by the Company, as amended in the proceeding, including: 6.5 MW in the Solar*Rewards Community program, 5 MW for the Recycled Energy program, up to 36 MW in the small segment, and 18 MW in the medium segment of the Solar*Rewards program.[4] Public Service argues that the ALJ's findings for maximum capacity acquisitions for the Solar*Rewards program are not supported by substantial evidence in the record, as required by law.[5]

13. The Company also asks us to find that its proposed market-based approach for the Windsource program is reasonable and well supported and, therefore, to approve the Company's proposed premium.

14. Finally, Public Service does not challenge the Recommended Decision's directive to not advance funds to the RESA. However, the Company requests clarification about how to prioritize RESA dollars among the Solar*Rewards, Solar*Rewards Community, and Recycled Energy programs if RESA funds are not sufficient to acquire all the resources approved.

[4] The Company proposes to acquire 2 MW per month over 18 months in the Small program and 1 MW per month in the Medium. *See* Public Service Brief on Exceptions, at 7. In its case and on exceptions, Public Service argues that the proposed 12-month acquisition targets of 24 MW and 12 MW are supported by the historical monthly averages for installed capacity for 2013, which it identifies as 2.06 MW for the Small third-party program and 0.95 MW for the Medium program.

[5] Public Service Brief on Exceptions, p. 6 (citing *Durango Transportation, Inc. v. Colo. Pub. Utilities Comm'n*, 122 P.3d 244, 250 (Colo. 205); *Integrated Network Services, Inc. v. Pub. Utilities Comm'n*, 875 P.2d 1375, 1377-78 (Colo. 1994)).

15. COSEIA's exceptions request we set aside the approved REC prices and instead adopt higher REC price steps for the small segment of the Solar*Rewards program. COSEIA also asks the Commission to resolve a perceived conflict between the REC prices for the medium segment adopted in the Recommended Decision and those approved in the settlement in Proceeding No. 14A-0414E.[6]

16. COSEIA argues the Commission should convert 1 MW subscribed at $0.05/kWh under the settlement to a $0.06/kWh REC payment under the Recommended Decision. COSEIA also recommends requiring Public Service to offer an additional 3 MW at $0.06/kWh.[7] Public Service opposes these requests in its response to exceptions.

17. Similar to COSEIA's requests in exceptions, TASC asks the Commission to adopt higher REC prices for the small segment of the Solar*Rewards program than approved by the ALJ, and also seeks resolution of the REC pricing for the medium segment.[8] In addition, TASC requests clarification that Public Service can count only capacity installed in the Solar*Rewards program toward the acquisition caps. TASC argues this clarification is necessary to ensure that the plan provides the intended continuity for the on-site solar market. Public Service opposes TASC's requests.

[6] COSEIA argues that this issue arises because of differences between the capacity levels and REC prices approved in the Recommended Decision and in the Settlement in Proceeding No. 14A-0414E, which included a provision that the capacity acquired under Settlement be subtracted from the capacity approved in this Decision. Under the Settlement, Public Service acquired 6 MW at $0.06/kWh and a single MW at $0.05. The Recommended Decision approved a total of 20 MW to be acquired in two REC price steps starting at $0.06/kWh. Thus, at least 1 MW of capacity acquired under the settlement was acquired at a price lower than the approximately 3 MW of capacity that would be acquired in the first REC price step under the Recommended Decision.

[7] COSEIA suggests that after these 3 MW are subscribed, REC prices would step down to $0.05/kWh for the remaining 10 MW.

[8] TASC argues the Commission should require Public Service to offer 4 MW at a REC price of $0.06 and 9 MW at a REC price of $0.05 in the Medium program.

18. SunShare filed several exceptions related to the Solar*Rewards Community program. SunShare requests the Commission clarify how much discretion Public Service has in determining the amount of capacity the Company will acquire within the range approved. SunShare suggests the intent of requiring a maximum size for CSGs is to expand access to solar resources. In order to reach the goal of expanding access to solar resources, SunShare argues that it is necessary, therefore, to require Public Service to accept all conforming bids up to the maximum approved. SunShare also requests the Commission direct Public Service to accept all conforming bids that do not require a REC payment. Public Service opposes these requests.

19. WRA's exceptions ask that we direct Public Service to file a new tariff for the Recycled Energy program that does not include standby charges. WRA also suggests that the current Windsource premium does not reflect the cost of the program and asks us to direct Public Service to file an updated Windsource premium using the method approved in Decision No. R09-0117, Proceeding No. 08A-260E issued February 5, 2009.

20. In its response to exceptions, the OCC states that it supports the ALJ's determinations that the acquisition of new eligible energy resources is contingent on the availability of RESA funds and that the Company shall not advance funds to the RESA account to acquire those resources. The OCC also supports the ALJ's decision on the Recycled Energy program. Finally, the OCC opposes COSEIA's and TASC's requests on REC pricing and supports Public Service's request that we adopt the smaller programs advocated by the Company.

21. Staff states that it does not take exception to the substance of the Recommended Decision, but expresses concern that the cost and RESA impact of the 2014 RES Plan as amended and approved by the ALJ are unknown. Staff recommends requiring Public Service to provide this information in a report filed with the Company's next RES Plan.

E. Supplemental Filing and Motion to Strike

22. Because Public Service requests that the Commission provide more specific guidance on which eligible energy resources the Company should acquire under the approved RES Plan, and, in particular, what order it should acquire resources if RESA collections are not sufficient to cover all of the associated costs, we directed Public Service to make a supplemental filing, as stated in Decision No. C14-1309-I, issued October 29, 2014.

23. Public Service's Supplemental Filing provides information on the total cost and RESA impacts of the RES Plan as modified by the ALJ, as well as updated calculations of available RESA funds for 2014 through 2016 and calculations showing the Company's ability to acquire up to 20 MW of Recycled Energy, 30 MW through the Solar*Rewards Community program, and 36 MW of Solar*Rewards each year for 2014, 2015, and 2016.[9] The Company's analysis shows that it can acquire these resources without advancing funds to the RESA and projects a positive RESA balance of $53.3 million in 2016.[10]

24. Public Service also includes estimates of additional costs associated with the net metering of on-site solar. While the Company states these details are informational, it recognizes that we severed issues related to net metering from this proceeding by Decision Nos. C14-0115-I issued January 29, 2014 and C14-0219-I issued February 27, 2014.[11]

25. In their Motion to Strike, the Joint Movants argue that, because the issues surrounding net metering credits were severed from this proceeding, the related sections of the

[9] Attachment A to Decision No. C14-1309-I

[10] Supplemental Filing, page 14.

[11] Issues related to net metering, including potential subsides in net metering credits, is pending before the Commission in Proceeding No. 14M-0235E.

Supplemental Filing should be stricken from the record. In addition, Joint Movants suggest the Commission should not rely on this information in making its decision on exceptions.

26. Because we severed the examination of net metering credits from this proceeding for consideration in Proceeding No. 14M-0235E, we grant the Motion to Strike.

27. TASC separately argues that the inclusion of the net metering credit data in the Supplemental Filing is an attempt to prejudice the outcome of this proceeding and suggests that a full hearing on this issue is required pursuant to §§ 40-6-109(1) and (2), C.R.S.

28. We deny TASC's request for a full hearing. Section § 40-6-109(2), C.R.S., permits the Commission to consider exceptions "either upon the same record or after additional hearing […]." While § 40-6-109(1), C.R.S., states that "parties to the proceeding shall be entitled to be heard, examine and cross-examine witnesses, and introduce evidence," not *all* of these processes are required in every instance. In this instance, Commission consideration of these issues through written briefing is sufficient given the circumstances, the limited additional information provided, and the Commission's desire to resolve these exceptions as efficiently as possible.[12]

[12] The Commission has discretion whether to conduct a hearing in certain proceedings. The Commission may also "hear" opposing interests by asking parties to present their arguments in the form of written briefs rather than full adjudicatory hearings. Where, as here, a formal hearing is not required by law, the inquiry turns to whether due process mandates such a hearing. *See Matthews v. Eldridge*, 424 U.S. 319 (1976). When evaluating what due process is required in administrative proceedings, the Supreme Court has determined that the agency must look at the nature of the interest at stake. *Goss v. Lopez*, 419 U.S. 565, 576 (1975). In Colorado, an administrative agency's determination to deny a hearing is based on "fundamental fairness in light of the total circumstances." *Sigma Chi Fraternity v. Regents of the University of Colo.*, 258 F.Supp. 515, 528 (D. Colo. 1996). Furthermore, Colorado courts have held that the Commission may use abbreviated or informal procedures for deciding matters before it. *See, e.g.*, *Public Service Co. of Colo. v. Public Utils. Comm'n*, 653 P.2d 1117 (Colo. 1982).

F. Findings and Conclusions

1. Support for Recommended Decision

29. We approve the Recommended Decision's modification of the RES Plan by approving acquisitions of eligible energy resources for an 18-month period from the effective date of the final Commission decision in this proceeding. This approach affords needed continuity and predictability in Public Service's on-site solar programs. The Recommended Decision offers the Company flexibility to acquire additional eligible energy resources under the cap of 2 percent of retail rates, as authorized in § 40-2-124(1)(g), C.R.S. Judge Adams's approach also provides additional protections for both the Company and ratepayers by placing limits on the acquisition of new eligible energy resources.

30. Several factors support the modifications to the proposed RES Plan as set forth in the Recommended Decision. Public Service confirms that it requires no additional eligible energy resources to comply with the RES in 2014 and that the Company will be in compliance with the RES through at least the end of 2016. We agree with the ALJ that, because Public Service can satisfy its RES obligations through the end of 2016, the primary issue before the Commission in this proceeding is establishing the amount of additional eligible energy resources Public Service should acquire above the minimum needed for RES compliance.

31. Judge Adams notes correctly that prior Commission decisions approving RES plans sought to balance resource acquisitions or program size with overall costs to ratepayers and with the impacts to the RESA deferred account. In those prior decisions, the Commission sought to ensure that Public Service was meeting its RES requirements, while managing the RESA balance and approving advances to the deferred account from Public Service, by establishing acquisition caps and declining incentive levels. In contrast, Public Service now shows through

the record in this proceeding that the on-site solar acquired under the RES Plan will not require advances from the Company to the RESA deferred account, and, due to the manner in which the costs are split for recovery between the Company's Electric Commodity Adjustment and the RESA, the RES Plan may not require any RESA spending at all.

2. Additional Modifications to RES Plan

32. Public Service demonstrates in the Supplement Filing that it has sufficient RESA funds to acquire the eligible energy resources approved by the Recommended Decision and that it can acquire additional resources above those amounts without advancing funds to the RESA deferred account. In its response to our request for additional information, the Company projects that the positive RESA balance will grow from approximately $6.5 million in 2014 to approximately $53.3 million in 2016.[13] Therefore, in addition to the ALJ's findings in the Recommended Decision, we conclude that it is possible for us to modify further the RES Plan to extend it through 2016. This extension provides further continuity and predictability in the Company's programs.

33. An extension of the RES Plan through 2016 also serves the public interest in judicial efficiency under § 40-6-101(1), C.R.S.[14] The Recommended Decision extends the 2014 RES Plan for 18 months following issuance of a final decision, or to approximately June, 2016. Extension of the plan through December 2016 will avoid the necessity of approving an interim, six-month plan before the 2017 RES Plan goes into effect. Based on the record in this proceeding, Public Service shall continue to comply with RES requirements through 2016;

[13] *See* Table 16 of the November 6 Supplemental filing. In that decision, we directed Public Service to model the acquisition of up to 20 MW of Recycled Energy, 30 MW through the Solar*Rewards Community program, and 36 MW of Solar*Rewards program for the years 2014 through 2016.

[14] In relevant part this states, "The commission shall conduct its proceedings in such manner as will best conduce the proper dispatch of business and the ends of justice […]."

in the absence of new information or a change in circumstances that would change that finding, a RES Plan filing that would apply to six months or less would be an inefficient use of the parties' and the Commission's resources.

34. The extension through 2016 also affords the Commission time to hear the issues related to net metering in Proceeding No. 14M-0235E, which were originally raised in this proceeding, and to inform the Company's programs and future eligible energy resource acquisitions beginning with the 2017 RES compliance year.[15]

35. As discussed below, our decision to extend the RES Plan through the end of 2016 resolves several exceptions filed by Public Service, COSEIA, TASC, WRA, and the OCC.

a. Solar*Rewards Program

36. The Recommended Decision approves a maximum of 65 MW of on-site solar to be acquired through the Solar*Rewards program over 18 months, which is an increase from the amount Public Service originally proposed. In its exceptions, and based on the 18 months approved by the ALJ, the Company requests the Commission approve 36 MW to be acquired in the small segment and 18 MW in the medium segment, for a total of 54 MW.

37. Both Public Service and the ALJ reviewed the range of historical average acquisitions per month over the 12 months prior to the RES Plan filing to determine the amounts of capacity to be acquired annually through the small and medium segments of Solar*Rewards. We adopt a similar approach in determining the capacity levels approved here.

[15] On January 1, 2014, the Colorado Energy Office filed a Motion to Sever Issues Related to Net Metering and requested that the Commission open an investigatory proceeding to consider, among other things, the cost and benefits of net metered on-site solar PV. *See also* Decision No. C14-0219-I for a complete discussion of the procedural history and our decision to severing net metering.

38. We approve the acquisition of up to 24 MW per year for the small segment in each year 2014, 2015, and 2016. We also approve the acquisition of up to 12 MW per year for the medium program in 2014, 2015, and 2016. These amounts are based on Public Service's approach of multiplying the average MW installed per month (2 MW for the small segment and 1 MW for the medium segment) by the number of months the plan will cover as put forward in the Direct and Rebuttal Testimonies Testimony of Company witness Lee Gabler.[16]

39. Upon amending the acquisitions levels for Solar*Rewards, we clarify and modify the approvals of the associated incentives. First, we agree with the ALJ that the standard offer prices for RECs as proposed by Public Service for the medium segment were largely unopposed. In addition, we find that $0.05/kWh is sufficient to incent the market and adopt that price for the medium segment.

40. Second, for the small Solar*Rewards segment, the ALJ correctly followed the Commission's practice of using declining price steps to reduce incentives paid and thus also reduce the overall cost to ratepayers for on-site solar. However, while the Recommend Decision approves declining REC prices, it also introduces new charges for solar customers. We therefore adopt an incentive of $0.02/kWh for RECs from customer-owned systems and $0.01/kWh for RECs from third-party owned systems for all of the small segment capacity approved here. Especially in light of the additional filing from Public Service indicating a surplus in the RESA balance, we conclude that these incentive levels will not cause a negative RESA balance but will instead result in excess funds in the RESA deferred account each year in 2014, 2015, and 2016.

41. Based on the foregoing, we deny the exceptions filed by Public Service, TASC, COSEIA, and the OCC regarding the Solar*Rewards Program.

[16] Hearing Exhibit 9, pages 15-18 and Exhibit 13, page 3, lines 16-19.

b. Solar*Rewards Community Program

3. Section 40-2-127(5)(a)(IV), C.R.S., states:

> For each qualifying retail utility's compliance years commencing in 2014 and thereafter, the commission shall determine the *minimum and maximum* purchases of electrical output from newly installed community solar gardens of different output capacity that the qualifying retail utility shall plan to acquire….
>
> (Emphasis added).

42. We agree with the ALJ that § 40-2-127, C.R.S., requires the Commission to establish a minimum and a maximum capacity acquisition level for CSGs each year beginning in 2014. We also agree with the ALJ that the 6.5 MW Public Service proposes in its RES Plan cannot serve as both a minimum and a maximum and that a cap of 30 MWs is reasonable for the program and is supported by the record.

43. Public Service argues that the 30 MW maximum is not supported by the record and there is "no competent evidence that Solar*Connect and CSG were intended to provide similar services to similar customers."[17] We do not find this argument compelling. We agree with the ALJ that the Company's Solar*Connect proposal is similar to Solar*Rewards Community, and applying the potential market for Solar*Connect strongly suggests that there is a market potential for up to 50 MW of CSGs.[18] As the finder of fact, the ALJ considered this testimony and evidence in making his determination on the range that should be approved pursuant to § 40-2-127, C.R.S. Consistent with the statutory requirement to set both a lower and upper acquisition level, we agree with the ALJ that 30 MW is within a range of reasonableness advocated in this proceeding.

[17] Public Service Exceptions, at 10.
[18] Hearing Transcript, Vol. 1, p. 158.

44. Therefore, we affirm the ALJ's determination that Public Service may acquire between 6.5 MW and 30 MW through the Solar*Rewards Community Program in 2014. Consistent with our extension of the 2014 RES Plan, we adopt the same minimum and maximum capacity levels for 2015 and 2016. Accordingly, we deny Public Service's and SunShare's exceptions regarding the size of the Solar*Rewards Community Program.

45. As stated above, SunShare also requests the Commission clarify the discretion Public Service has in determining the amount of CSG capacity it will accept. SunShare suggests we direct the Company to accept all conforming bids (up to the maximum program size approved) and to accept all applications for CSGs that do not require REC payments.

46. We decline to adopt SunShare's recommendations and deny its exceptions on these points. The policy issue in this proceeding is the amount of renewable energy Public Service may acquire above what it needs for RES compliance. Granting these exceptions would compel Public Service to acquire the maximum capacity approved and render meaningless the statutory requirement for the Commission to establish a minimum and maximum amount of purchases. We adopt a range as stated above for CSG acquisitions as required by § 40-2-127, C.R.S., and Commission Rule 3665(d)(I).[19]

c. Recycled Energy Program

47. The Recommended Decision approves the acquisition of up to 20 MW in 2014 through the Recycled Energy program. Individual projects are limited to 10 MW and incentives are to be paid over 10 years.

[19] This requirement is contingent on the utility having RESA funds available and receiving conforming bids.

48. In its exceptions, Public Service requests the Commission set aside the ALJ's findings and directives and instead adopt the program proposed in its 2014 RES Plan that includes a 2 MW size limit on individual projects, a 5 MW program acquisition cap, and performance-based incentives paid over 20 years.

49. We deny Public Service's exceptions and approve the acquisition of up to 20 MW per year for 2015 and 2016 consistent with our extension of the plan through 2016. Public Service's Supplemental Filing shows that the Company can acquire up to 20 MW of Recycled Energy per year for 2015 and 2016 without creating a negative RESA balance or needing to advance funds.

50. We also agree with the ALJ that the record does not demonstrate adequate justification to limit project size to 2 MW.[20] Rule 3652(q) of the Commission's Rules Regulating Electric Utilities 4 CCR 723-3, allows for recycled energy projects up to 15 MW in size. The ALJ is correct that projects above 10 MW can be bid through the Electric Resource Plan (ERP) and thus may be considered outside of a RES Plan. Further, the record demonstrates that the majority of recycled energy projects installed in the U.S. over the last several years is above 2 MW and thus would be excluded under Public Service's proposed plan.[21] Therefore, we affirm the ALJ's finding that individual projects acquired through the Recycled Energy program may be up to 10 MW, as supported in the record in this proceeding.[22]

[20] Recommended Decision ¶ 133.

[21] Recommended Decision, ¶ 121; *see also*, Hearing Transcript, Vol. 1, p. 164-176 where Public Service witness Ms. Sundin states that Public Service is aware of a potential 2.5 MW recycled energy project that would be excluded under the Company's proposal.

[22] Recommended Decision ¶ 131-132. Hearing Exhibit 1001, p. 7 ln. 7-9 and p 8, ln.1-21.

4. Other Exceptions

d. TASC's Request for Clarification

51. In its exceptions, TASC asks the Commission to clarify that the term "acquire" in ordering paragraph no. 4 of the Recommended Decision means the capacity must be installed and not just reserved. TASC argues that ensuring market continuity for on-site solar installations requires the capacity be installed; otherwise, the capacity approved by the Commission may not be sufficient to sustain the market for the term of the RES Plan adopted by the ALJ.

52. Public Service opposes this request, arguing that the ALJ based his determinations on past program offerings rather than installed capacity as defined by TASC. In addition, Public Service argues that TASC's request is an attempt to "backfill" capacity, which would administratively burden the Company and weaken the incentive for solar developers to submit applications with a high likelihood of being completed.[23]

53. We agree with Public Service that the current practice of not backfilling uninstalled Solar*Rewards capacity encourages developers to submit application projects they believe will be completed. We deny TASC exceptions on this point.

e. RESA Fair Share Charge

54. As explained in the Recommended Decision, Public Service seeks Commission approval to implement a RESA fair share charge for customers who install on-site solar generation after January 1, 2014, and who take service under the Company's Net Metering Service tariff. The ALJ approved the request and suggested the Commission may decide to

[23] Public Service argues that restoring unused capacity raises several issues, including whether unused capacity should be returned to the queue at the REC price reserved or at the then-prevailing REC price.

review the charge when considering the status of the RESA deferred account balance in the future.

55. In its exceptions, COSEIA argues the ALJ's approval of Public Service's request to begin collecting the RESA fair share charge should be reversed and the issue should be considered in Proceeding No. 14M-0235E where the Commission is addressing issues related to net metering. In response, Public Service argues the Commission's choice not to remove the RESA fair share charge from the instant proceeding when it severed net metering shows the Commission intended for the issue to be decided here.

56. We find that the ALJ was correct in determining that § 40-2-124(1)(g)(IV)(B), C.R.S., and 4 CCR 723-3664(h) authorize the collection of this charge. In addition, we agree with Public Service that we elected not to sever the RESA fair share charge from consideration in this proceeding when we issued Decision Nos. C14-0115-I and C14-0219-I. We therefore deny COSEIA's exceptions on this point.

57. On our own motion, we amend the Recommended Decision regarding when Public Service may begin to bill the charge. The Recommended Decision approved Public Service's request to begin collecting the charge starting January 1, 2014; instead, we authorize Public Service to collect the charge on a prospective basis only for customers who begin taking service under the Company's Net Metering Service tariff (Schedule NM) after the effective date of this Decision. We find that this approach is consistent with Public Service's suggestion to collect the charge per Commission rules, but to avoid impacting customers who were not aware of the charge when they purchased the system.[24]

[24] Hearing Exhibit 2, at 25.

f. Standby Tariff Filing Requirement

58. WRA requests the Commission require Public Service to file a new tariff for recycled energy projects that removes the requirement that customers also take service under the Company's applicable Standby Service tariffs. WRA argues that the ALJ concluded that Public Service failed to demonstrate that recycled energy projects warranted such treatment and therefore the requirement to take Standby Service is not just and reasonable.

59. In response, Public Service suggests that WRA mischaracterizes the ALJ's findings and conclusions and further requests that the Commission not adopt paragraph no. 135 of the Recommended Decision.

60. We agree with WRA that a standby charge for recycled energy projects will affect whether they are offered. However, the record in this proceeding does not warrant ordering Public Service to file a tariff for recycled energy projects that removes the requirement that customers also take Standby Service.

61. We direct Public Service to begin offering the Recycled Energy program as approved by the Recommended Decision. We also direct Public Service to file a new tariff to support the Recycled Energy programs within 60 days of the effective date of this Decision. The tariff filing shall address why recycled energy projects should be required to take Standby Service.

g. Windsource

62. The Recommended Decision finds that Public Service failed to meet its burden in support of its proposed market-based pricing method for the Windsource premium.[25]

[25] Recommended Decision at ¶111.

63. In its exceptions, Public Service requests the Commission to set aside the ALJ's determinations on Windsource and instead approve the Company's proposal put forward in the RES Plan. Public Service argues that its request is sufficiently supported by a nationwide and Colorado-specific analysis as well as a study of the Company's customers.

64. WRA notes that several parties, including Public Service and Staff, agree that the Windsource premium likely does not reflect the cost of service to provide the program. WRA recommends the Commission order Public Service to recalculate the premium using the currently approved, cost-based methodology and to update the premium through an advice letter compliance filing.

65. We uphold the findings and directives in the Recommended Decision concerning Windsource. The ALJ correctly concluded that Public Service's proposal for the Windsource premium is not adequately supported. We also note that the ALJ determined that, if the costs for Windsource do not reflect the cost to provide the program, the premium should be reviewed.[26] However, we decline to force such a review based on the record in this proceeding. Therefore we deny Public Service's and WRA's exceptions on this point.

h. Other Requests

66. Throughout its exceptions, Public Service requests clarification on what priority Recycled Energy, Solar*Rewards, and CSG programs would have given the overall limitations on spending in the Recommended Decision. We find that no clarification is necessary at this time; the Supplemental Filing indicates that Public Service can comply with the RES through 2016 within the 2 percent cap.

[26] *Ibid* at ¶113.

67. Any exception not addressed in this Decision is denied.[27]

5. Modifications to Affected Commission Decisions

68. Extending the 2014 RES Plan through the end of 2016 obviates the need for Public Service to file a RES Plan addressing 2015 and 2016. Therefore, we waive the requirement that the Company file its next RES Plan within 60 days after the effective date of a final decision in this proceeding as stipulated under the terms of the settlement approved by Decision No. C14-0729 in Proceeding No. 14V-0188E. Instead we direct the Company to file its next RES Plan with its next ERP on or before October 31, 2015, as required by Rule 3657(a)(IV).

69. By Decision No. C14-0701 in Proceeding No. 14A-0414E issued June 25, 2014, we approved a settlement that required Public Service to deduct any capacity acquired in 2014 in the small or medium segments of the Solar*Rewards from the amount of capacity approved for those segments in this proceeding.[28]

70. The approach we adopt approves capacity in the small and medium Solar*Rewards segments on an annual basis for three separate years. The capacity approved for 2015 and 2016 was not considered in the settlement. Public Service shall not to deduct any capacity acquired through Solar*Rewards in 2014 from the capacity amounts approved for that program for either 2015 or 2016.

[27] Public Service requests correction to a typographic error in Recommended Decision, ¶ 77. Public Service is correct that its proposal for Step 6 should be $0.05; however, the errata correction is no longer relevant due to extension of the plan through 2016.

[28] During the pendency of this proceeding, Public Service acquired 7 MW in the Medium Solar*Rewards program and approximately 28 MW in the Small program under the Settlement in Proceeding No. 14A-0414E. *See* Decision Nos. C14-0701 and C14-1299 issued October 28, 2014 in Proceeding No. 14A-0414E.

II. ORDER

A. The Commission Orders That:

1. Pursuant to § 40-6-109(2) C.R.S., we amend Decision No. 0R14-0902 and extend the 2014 Renewable Energy Standard Compliance Plan filed by Public Service Company of Colorado (Public Service) on July 24, 2013, to be in effect through the end of 2016. We approve the acquisition of renewable energy resources on an annual basis for 2014, 2015, and 2016 consistent with the discussion above.

2. Public Service shall not deduct the capacity installed in 2014 under the terms of the Settlement in Proceeding No. 14A-0414E from the capacity approved for 2015 or 2016 for the Small or the Medium Solar*Rewards program.

3. Public Service shall not advance funds to the Renewable Energy Standard Adjustment deferred account to acquire additional renewable resource approved by this Decision.

4. Consistent with the discussion above, Public Service shall file a new Advice Letter with an updated tariff for its Recycled Energy program within 60 days of the effective date of this Decision.

5. Public Service shall file a new Advice Letter, as a compliance filing, with an updated Windsource premium using the methodology approved Decision No. R09-0117 (Proceeding No. 08A-260E).

6. The Exceptions to Decision No. R14-0902 filed by Public Service on August 20, 2014, are denied, consistent with the discussion above.

7. The Exceptions to Decision No. R14-0902 filed by Commission Staff on August 20, 2014, are denied, consistent with the discussion above.

8. The Exceptions to Decision No. R14-0902 filed by the Colorado Solar Energy Industries Association on August 20, 2014, are denied, consistent with the discussion above.

9. The Exceptions to Decision No. R14-0902 filed by the Alliance for Solar Choice on August 20, 2014, are denied, consistent with the discussion above.

10. The Exceptions to Decision No. R14-0902 filed by SunShare LLC on August 20, 2014, are denied, consistent with the discussion above.

11. The Exceptions to Decision No. R14-0902 filed by Western Resource Advocates on August 20, 2014, are granted, in part, consistent with the discussion above.

12. The Joint Motion to Strike parts of the additional information filed by Public Service on November 12, 2014, is granted, consistent with the discussion above.

13. The 20-day period provided in § 40-6-114, C.R.S., within which to file applications for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

14. This Decision is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING November 24, 2014.

(S E A L)

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners